



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

2004 SEP -2 AM 10: 29

DOCKET NO.: CWA-08-2004-0065

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF:

BUCKBOARD MARINA, INC.

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

September 2, 2004  
DATE

Alfred C. Smith  
Alfred C. Smith  
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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In the Matter of:

Buckboard Marina, Inc.

Respondent.

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**EXPEDITED CONSENT AGREEMENT**

**DOCKET NO.: CWA-08-2004-0065**

Complainant, United States Environmental Protection Agency, Region 8, and Respondent, Buckboard Marina, Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations found during the review of the May 2003 SPCC Plan for Buckboard Marina, Inc., and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates a marina, Buckboard Marina, Inc. located at the Flaming Gorge Reservoir, in Sweetwater County, Wyoming.

Respondent admits its facility is subject to the SPCC regulations.

Respondent agrees to correct the items cited on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion. Send a copy of the revised Plan to the person named below.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$ 400.00 which, shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Donna K. Inman  
Technical Enforcement Program (8ENF-UFO)  
USEPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans

Elisabeth Evans, Director  
Technical Enforcement Program

8.31.04

Date

**Buckboard Marina, Inc., Respondent.**

By: Leslie B Tanner  
8-25-04

Date

Name: Leslie B Tanner  
Title: Pres;

## List of SPCC Plan Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and implement a facility SPCC Plan in accordance with 40 C.F.R. §§ 112.7 and 112.8.

The specific deficiencies in the SPCC Plan are:

No signature on the management approval of the plan in accordance with 40 C.F.R. § 112.7.

Inadequate discussion of potential equipment failure with respect to a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of major equipment failure as required by 40 C.F.R. § 112.7(b).

Fails to address the secondary containment for truck loading and unloading area as required by 40 C.F.R. §112.7(c).

Fails to address written procedures for conducting inspections and maintenance of the written inspection records for three years as required by 40 C.F.R. §112.7(e).

Fails to address lock outs for pump controls, access control, the sealing of loading and unloading connections, and lighting appropriate for the facility as required by 40 C.F.R. § 112.7(g).

Fails to addresses the drainage of uncontaminated water from secondary containment as required by 40 C.F.R. § 112.8(c)(3).

Fails to address the “fail-safe engineering” measures on the tanks to prevent overfilling as required by of 40 C.F.R. §112.8(c)(8).

Fails to address the procedures to be used to promptly remove any accumulations of oil in diked areas which results from a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts as required by 40 C.F.R. § 112.8(c)(10).

Inadequately addresses transfer operations, pumping, and facility processes as required by 40 C.F.R. § 112.8(d).

In addition to the above, items that need to be included to be in compliance with the revised SPCC regulations published in the Federal Register on July 17, 2002, are:

Current version of the PE Certification is not as required by 40 C.F.R. § 112.3(d).

A sequence or cross reference list as required by 40 C.F.R. § 112.7. A matrix correlating the old regulations with the revised regulations is enclosed.

The Plan must address all SPCC requirements, or indicate why they are inapplicable to the facility.

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **BUCKBOARD MARINA, INC.**, **DOCKET NO.: CWA-08-2004-0065** was filed with the Regional Hearing Clerk on September 2, 2004.

Further, the undersigned certifies that a true and correct copy of the document were delivered to David Janik, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on September 2, 2004, to:

Mr. Leslie R. Tanner  
Buckboard Marina, Inc.  
HRC 65 Box 100  
Green River, WY 82935

and

Commander  
Finance Center (OGR)  
U.S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

September 2, 2004



Tina Artemis  
Regional Hearing Clerk